

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN KING,

Plaintiff,

Hon. Wendell A. Miles

v.

Case No. 4:02-cv-141

CHUCK ZAMIARA, et al.,

Defendants.

ORDER

This matter is before the Court on Plaintiff's Motion for Taxable Costs. (Dkt. #72). Defendants have not responded to Plaintiff's motion. As discussed herein, Plaintiff's motion is **granted in part and denied in part**.

Plaintiff initiated this action on July 26, 2002, asserting various claims against numerous defendants. On March 5, 2004, the Court granted Defendants' motion for summary judgment and dismissed this action. Plaintiff appealed the matter to the Sixth Circuit Court of Appeals, which affirmed this Court's decision save for Plaintiff's claim that his security classification was increased in retaliation for participating in the *Cain* class action and for also providing legal assistance to other prisoners. With respect to this particular claim, the Sixth Circuit remanded the matter to this Court "to determine whether the officials are entitled to qualified immunity." On August 22, 2006, the Court dismissed Plaintiff's remaining claim on the ground that Defendants were entitled to qualified immunity. Plaintiff appealed this decision to the Sixth Circuit Court of Appeals which vacated the Court's qualified immunity determination and remanded the matter for further proceedings.

Having prevailed on appeal, Plaintiff now moves for costs in the amount of \$582.42. Defendants have not responded to this motion. Federal Rule of Appellate Procedure 39(a)(4) provides that “if a judgment is . . . vacated, costs are taxed only as the court orders.” On June 21, 2007, the Sixth Circuit Court of Appeals issued a Mandate providing that the compensable costs in this matter were \$565.25 (not \$582.42 as Plaintiff asserts). Accordingly, Plaintiff’s motion is hereby **granted in part and denied in part**. Defendants shall pay to Plaintiff \$565.25 in costs.

IT IS SO ORDERED.

Date: October 5, 2007

/s/ Wendell A. Miles
HON. WENDELL A. MILES
United States District Judge